

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Josephine Ogboye	Team: Team # 2	CCRB Case #: 200900438	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 01/11/2009 9:00 PM	Location of Incident: intersection of Arlington and Jamaica Avenues and Bradford Street	Precinct: 75	18 Mo. SOL 7/11/2010	EO SOL 7/11/2010	
Date/Time CV Reported Sun, 01/11/2009 9:25 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 01/12/2009 2:55 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Domenico Colavito	00355	883666	075 PCT
2. POM Daniel Barreto	29988	939904	075 PCT
3. POM Jason Caputo	27878	935156	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Domenico Colavito	Abuse: Sgt. Domenico Colavito authorized the stop of the car in which § 87(2)(b) was an occupant.	
B.POM Daniel Barreto	Abuse: Officer Daniel Barreto frisked § 87(2)(b)	
C.POM Daniel Barreto	Abuse: Officer Daniel Barreto searched § 87(2)(b)	
D.SGT Domenico Colavito	Abuse: Sgt. Domenico Colavito searched the car in which § 87(2)(b) was an occupant.	
E.POM Daniel Barreto	Abuse: Officer Daniel Barreto refused to provide his name and/or shield number to § 87(2)(b)	
F.POM Jason Caputo	Abuse: Officer Jason Caputo refused to provide his name and/or shield number to § 87(2)(b)	
G.SGT Domenico Colavito	Abuse: Sgt. Domenico Colavito refused to provide his name and/or shield number to § 87(2)(b)	

Synopsis

§ 87(2)(b) filed this complaint with the CCRB on January 11, 2009. On the stated date, at approximately 9:00PM, in the vicinity of Arlington Avenue and Bradford Street, three plainclothes officers in an unmarked vehicle stopped § 87(2)(b)'s vehicle because the windows were darkly tinted (**allegation A**). § 87(2)(b) obtained their vehicle plate number and the officers were subsequently identified through investigation as Sgt. Domenico Colavito, Officer Daniel Barreto, and Officer Jason Caputo. Officer Barreto instructed § 87(2)(b) out of his vehicle and allegedly frisked and searched him (**allegation B and C**). While § 87(2)(b) was positioned to the rear of his vehicle, Sgt. Colavito allegedly searched the vehicle (**allegation D**). § 87(2)(b) also allegedly asked all three officers for their names and shields, but the officers did not provide the information to him (**allegations E, F, and G**).

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b) was interviewed at the CCRB on January 22, 2009 (encl. 5a-d). § 87(2)(b) is a § 87(2)(b) black male with § 87(2)(b). He currently resides at § 87(2)(b), in Brooklyn. He provided statements regarding this complaint in his initial narrative and in his CCRB interview. Both statements were consistent and have been condensed into the following summary.

On January 11, 2009, at approximately 9:00PM, § 87(2)(b) observed two white males in a dark colored van drive by in front of his mother's home located at § 87(2)(b), in Brooklyn. The van only had two front passenger windows while the rest of the van was sealed up (metal). § 87(2)(b) and his girlfriend, § 87(2)(b) walked towards his sister's vehicle, which he described as a 2006 Mitsubishi Gallant with tinted windows and plate # § 87(2)(b). They both stepped in and § 87(2)(b) turned on the ignition to warm up the car then stepped out again to smoke a cigarette while § 87(2)(b) sat in the car. As he did so, he observed that the same van had gone around the block and was coming up his block again. § 87(2)(b) waited until the van passed him and the van continued on and parked at the intersection a few houses ahead of his mother's house. § 87(2)(b) believed the van looked very suspicious and he did not want it to follow him. § 87(2)(b) then got into his vehicle and drove a few blocks up Elton Street and made a left on Jamaica Avenue. He continued on Jamaica Avenue and headed towards Broadway Junction. § 87(2)(b) then observed an unmarked black Chevy Impala (§ 87(2)(b)) driving towards him in the opposite direction. The vehicle passed him and then made a u-turn at the intersection of Jamaica Avenue and Elton Street, and followed about three vehicles behind him.

The unmarked vehicle followed § 87(2)(b)'s vehicle for about three blocks and pulled him over at the intersection of Arlington Avenue and Bradford Street. § 87(2)(b) also observed a marked police van #5899 with approximately four to five uniformed white male officers who remained in the van the entire time.

Three white male officers, identified through investigation as Officer Daniel Barreto, Sgt. Domenico Colavito and Officer Jason Caputo, in plain clothes, exited the unmarked vehicle. Officer Barreto and Sgt. Colavito approached on the drivers' side of the vehicle, while Officer Jason Caputo approached on the passenger side. § 87(2)(b) rolled down his window and asked Officer Barreto what the problem was. Officer Barreto instructed § 87(2)(b) to step out of the vehicle. Officer Barreto was a 6ft tall, husky, white male in his late twenties, while Sgt. Colavito was an older white male, about 6ft tall and in his forties. § 87(2)(b) asked why he had to step out of the vehicle, and Officer Barreto did not give him an answer, but repeated the instruction for him to step out of the vehicle. § 87(2)(b) complied and once he stepped out, Officer Barreto instructed him to step towards the left passenger door and frisked and searched him. § 87(2)(b) explained that as Officer Barreto began to pat him down and reach into his pockets, he explicitly told Officer Barreto that he objected to being searched. § 87(2)(b) also initially moved Officer Barreto's hand away and asked him why he was being searched. Officer Barreto then grabbed § 87(2)(b)'s jacket firmly and told him to "just hold on a minute." § 87(2)(b) was wearing a pair of jeans and a grey coat. The coat had two front pockets on both sides and about four inner pockets. Officer Barreto felt around

the pocket of § 87(2)(b)'s coat and when he felt that there were some items inside the coat but they were not accessible through the outside pockets, he reached into the inner pockets of § 87(2)(b)'s coat. § 87(2)(b) had personal items on him such as his cell phone, a cell phone charger, condoms, some change, and his keys. Officer Barreto also reached into § 87(2)(b)'s pants pockets, took out his wallet from his back pocket, and placed it on the vehicle. § 87(2)(b) also had a lighter, a pack of cigarettes, and some change in his front pants pocket as well. § 87(2)(b) explained that as Officer Barreto patted him down, he reached into every pocket he felt an object in and pulled out the contents to ensure that there was no contraband. Officer Barreto then continued to pat him down and search him by lifting up his pants and reaching into his socks and feeling around both of his legs. As Officer Barreto searched § 87(2)(b) Sgt. Colavito searched the driver's side of his vehicle. Sgt. Colavito had his flashlight on and reached into the areas around the driver's side such as the visor, the middle console and the door compartment. Officer Caputo was still positioned by the passenger side and also flashed his light into the vehicle and in § 87(2)(b)'s face. § 87(2)(b) was still sitting inside the vehicle at this time. § 87(2)(b) also told Sgt. Colavito that he objected to his searching of the vehicle. The officers did not ask § 87(2)(b) for his identification or for any documents. § 87(2)(b) then asked Officer Barreto about his badge number and what precinct he belonged to and Officer Barreto told him that they were "narcotics." Officer Caputo was a 5' 6" tall, slim white male in his late twenties. § 87(2)(b) stated that he was agitated when the officers were searching his person and his car and he persistently questioned them.

Officer Barreto then removed § 87(2)(b)'s license from his wallet and noticed that § 87(2)(b) had a PBA card as well. Officer Barreto asked § 87(2)(b) where he got the PBA card from. § 87(2)(b) told him that it was none of his business and it had nothing to do with why he was just stopped and searched. § 87(2)(b) then asked him again why he was stopped and searched. § 87(2)(b) also asked Sgt. Colavito why he was searching the vehicle. Sgt. Colavito, who found § 87(2)(b)'s sister's MOS parking plaque inside the vehicle, asked § 87(2)(b) why he was driving around with the parking plaque. § 87(2)(b) who did not know that the plaque was there (because it was in the sun visor), told Sgt. Colavito that it was none of his business. § 87(2)(b) asked Sgt. Colavito and Officer Caputo for their badge numbers as well, but they did not provide him with the information. As § 87(2)(b) continued to question why the officers stopped him, Sgt. Colavito told him to shut up or else he will issue him a summons for the tinted windows on the vehicle. § 87(2)(b) explained that all the windows were tinted. During this time, § 87(2)(b) exited the vehicle to find out what was going on but § 87(2)(b) told her to go back into the vehicle. Officer Barreto then went to the unmarked vehicle to run § 87(2)(b)'s license while § 87(2)(b) was instructed to sit in his vehicle.

About fifteen minutes later, Officer Barreto returned with § 87(2)(b)'s license. Sgt. Colavito also continued questioning § 87(2)(b) about where he got the PBA card from and which of his family members was an officer. § 87(2)(b) again told the officer that it was none of his business. Officer Barreto returned § 87(2)(b)'s license to him and the officers walked back to their vehicle and left. § 87(2)(b) also noticed the dark colored van he had observed earlier on Elton Street. All three vehicles drove away in a convoy. § 87(2)(b) noted that there was no crowd gathered during the interaction. § 87(2)(b) did not use any form of profanity towards any of the officers and he did not hear any of the officers use any form of profanity.

Results of Investigation

Civilians Interviewed

§ 87(2)(b) was interviewed at the CCRB on January 22, 2009 (encl. 6a-d). § 87(2)(b) is a § 87(2)(b), black female with § 87(2)(b). She currently resides at § 87(2)(b), in Brooklyn. Her statement was generally consistent with that of § 87(2)(b) and has been condensed into the following summary with any inconsistencies noted.

On January 11, 2009, at approximately 9:00PM, § 87(2)(b) and her boyfriend, § 87(2)(b) were driving down on Jamaica Avenue when they were pulled over by an unmarked police vehicle. § 87(2)(b) was driving while § 87(2)(b) was positioned in the front passenger seat. § 87(2)(b) believed that there were a total of four or five officers in plain clothes who exited the unmarked vehicle. She described the vehicle as a grayish-black car.

Two officers approached the vehicle on both sides with their hands on their holsters. § 87(2)(b) asked the officers why he was stopped and Sgt. Domenico Colavito (identified through investigation), who

was on the driver's side, instructed § 87(2)(b) to exit the vehicle. Sgt. Colavito was a 5' 10" tall white male in his forties. § 87(2)(b) again asked what he was being stopped for and Sgt. Colavito said, "You'll find out, just get out." § 87(2)(b) then exited the vehicle and was instructed to step to the rear of the vehicle. § 87(2)(b) did not hear the conversation or see what was going on. She was unsure if the officers frisked or searched § 87(2)(b) at this time because Sgt. Colavito had returned to search the car and she was busy questioning him.

Sgt. Colavito searched the front driver's side of the vehicle. He had his flashlight on and began looking through the compartments on the side of the door, the middle area, and the visor. § 87(2)(b) asked him why they were stopped, and he told her that he would tell them later. Sgt. Colavito saw a police parking plaque in the visor and then asked § 87(2)(b) about whose vehicle they were driving and who in the family was a police officer. § 87(2)(b) responded, "What?" and Sgt. Colavito got on his cell phone and made a call. § 87(2)(b) then asked him if she could step out and see what was going on with her boyfriend, but Sgt. Colavito instructed her to remain in the vehicle. § 87(2)(b) then questioned Sgt. Colavito again about why they were stopped and he told her to just wait and he will let her know later. § 87(2)(b) asked the officer standing by the passenger side, and identified through investigation as Officer Jason Caputo, if she could exit the car and he also told her to wait, but she was eventually allowed to step out of the vehicle. § 87(2)(b) and § 87(2)(b) continued to ask the officers why they were stopped, but they did not give them any answers.

§ 87(2)(b) also observed a marked police van in the area with uniformed officers. She did not observe any of the officers in the marked van exit the van or have any direct interaction with § 87(2)(b). She observed that § 87(2)(b) became upset because the officers refused to tell him why he was stopped even as he repeatedly asked them.

§ 87(2)(b) was unsure of the interaction between § 87(2)(b) and the officers before she stepped out of the vehicle. She was unsure if any officer had any physical contact with § 87(2)(b) because he was positioned by the rear driver's side while she was sitting in the front passenger side.

§ 87(2)(b) went back in the car shortly afterwards while § 87(2)(b) remained outside with the officers. The officers eventually returned § 87(2)(b)'s ID to him. § 87(2)(b) again asked the officers why they were pulled over and Sgt. Colavito, who searched the car and did most of the talking, was very rude and nasty and told § 87(2)(b) to "go the fuck home." § 87(2)(b) was sitting inside the car at this point, but she had her door open because she wanted to hear what was going on. The officers left after § 87(2)(b) was told to go home.

§ 87(2)(b) was unsure about the description of the other officers because she did not pay attention to them, except for Sgt. Colavito.

Identification of Officers Interviewed

§ 87(2)(b) obtained the license plate number and description of the vehicle the officers drove. A Fleet request to the NYPD returned results specifying that the vehicle with plate #§ 87(2)(b) was unmarked vehicle # "8192" assigned to the 75th Precinct. As per roll call, Sgt. Colavito, Officer Barreto, and Officer Caputo were assigned to vehicle #8192 on the incident date. They were also assigned to the Street Narcotics Enforcement Unit which confirmed § 87(2)(b)'s assertion that he was informed by one of the officers that they were from "Narcotics."

Officers Interviewed

Officer Daniel Barreto was interviewed at the CCRB on June 10, 2009 (encl. 7a-d). Officer Barreto is a § 87(2)(b). Officer Barreto worked from 3:00PM on January 11, 2009 to 3:05AM on January 12, 2009. He was assigned to the Street Narcotics Enforcement Unit, and he worked with Officer Jason Caputo and Sgt. Domenico Colavito. They were in plainclothes and assigned to a black Chevy Impala. Officer Barreto was the driver while Sgt. Colavito was positioned in the front passenger seat and Officer Caputo in the rear. Officer Barreto did not have any entries in his memo regarding the incident.

Officer Barreto observed § 87(2)(b) driving a vehicle with extremely dark tinted windows, so § 87(2)(b)'s vehicle was pulled over. Officer Barreto did not recall having any discussion with any of the other officers before § 87(2)(b)'s vehicle was stopped, and § 87(2)(b) was stopped immediately after he was observed. All three officers approached § 87(2)(b)'s vehicle: Officer Barreto

approached the vehicle on the driver's side while Sgt. Colavito approached on the passenger side. Officer Barreto did not recall where Officer Caputo was positioned. Upon approach, Officer Barreto observed a New York City Police Department parking plaque assigned to the 69th Precinct on the dashboard of § 87(2)(b)'s vehicle. The plaque was positioned directly above the steering wheel, near the vehicle registration. Officer Barreto observed the parking plaque once he approached the vehicle, and, as a result, initially thought § 87(2)(b) was a member of service. However, § 87(2)(b) responded that he was not a member of service after Officer Barreto asked him if he was. Officer Barreto explained that the plaque is the property of the police department and is only supposed to be used for official duty, so he further questioned § 87(2)(b) regarding the ownership of the plaque and the vehicle he was driving, and why he had the plaque since he was not a police officer.

§ 87(2)(b) then became very irate and combative with Officer Barreto by being loud and moving his hands around as Officer Barreto questioned him. Officer Barreto could not specify if § 87(2)(b) was particularly reaching towards any direction or for anything, but he "just knew that § 87(2)(b) was moving his hands around." He stated that he was unable to see § 87(2)(b)'s hands the entire time he was questioning him. This caused Officer Barreto to fear for his safety, and he instructed § 87(2)(b) to exit his vehicle. Officer Barreto did not recall if he instructed § 87(2)(b) to place his hands where he could see them before instructing him to exit the vehicle. § 87(2)(b) complied and Officer Barreto walked him to the back of his vehicle. Officer Barreto recalled that § 87(2)(b) complied with the instructions to stop his vehicle and to exit his vehicle, and he did not recall if there any instructions given to § 87(2)(b) which he failed to comply with.

§ 87(2)(b) was still upset when he exited the vehicle. Officer Barreto again questioned § 87(2)(b) about the ownership of the NYPD plaque and the vehicle, and § 87(2)(b) explained that the vehicle and plaque belonged to his sister, who is an NYPD officer and who lives on Elton Street. § 87(2)(b) told the officers that she works at the 69th Precinct and that she knew he had her car which he had permission to drive. Officer Barreto called and verified the identification of § 87(2)(b)'s sister and once her identification was confirmed, § 87(2)(b) was allowed to leave. The officers explained the reason he was questioned and told him that he was not allowed to display the parking plaque since he was not an on-duty police officer.

Officer Barreto did not frisk or search § 87(2)(b) and no other officer did. Officer Barreto noted that no officer made any direct physical contact with § 87(2)(b). Both Officer Caputo and Sgt. Colavito were standing close to Officer Barreto as Officer Barreto questioned § 87(2)(b) who was positioned to the rear of his vehicle. Officer Barreto noted that § 87(2)(b)'s vehicle was never searched. He also noted that the parking plaque remained on the dash board during the entire vehicle stop. Officer Barreto did not recall if any other officer had any verbal interaction with § 87(2)(b). He believed Sgt. Colavito might have, but he was unsure. Officer Barreto did not recall observing any PBA card on § 87(2)(b). Officer Barreto did not recall if § 87(2)(b) asked him for his name and shield number and he did not remember providing his information to § 87(2)(b). Officer Barreto did not threaten to issue a summons to § 87(2)(b) for having the tinted windows and he did not recall if any other officer threatened to issue him a summons.

Sgt. Domenico Colavito was interviewed at the CCRB on June 30, 2009 (encl. 11a-e). Sgt. Colavito is a § 87(2)(b). On January 11, 2009, Sgt. Colavito was the Street Enforcement Narcotics Unit's supervisor for the 75th Precinct. He was assigned to an unmarked Chevy Impala along with Officer Daniel Barreto and Officer Jason Caputo, and they were all in plainclothes. Sgt. Colavito was positioned in the front driver seat while Officer Barreto was the driver and Officer Caputo was in the back. Sgt. Colavito's scheduled tour was from 2:15PM to 11:47PM but he worked overtime until 3:00AM on January 12, 2009. In his memo book, Sgt. Colavito noted that at 7:05PM, there was a car stop at Jamaica Avenue and Wyona Street: tinted windows. He observed NYPD parking plaque and contacted borough for master list but received negative results. He asked the driver § 87(2)(b) to call the MOS who owned the plaque and § 87(2)(b) claimed the plaque belonged to his sister. She verified the ownership of the plaque and the officers resumed patrol at 7:15PM.

On January 11, 2009, Sgt. Colavito observed § 87(2)(b)'s vehicle drive by with all of its windows darkly tinted. § 87(2)(b) was pulled over at the intersection of Jamaica Avenue and Wynona Street, which also intersects Arlington Avenue, in Brooklyn. There were no additional factors except for the "super dark" windows which caused the officers to pull § 87(2)(b) over. Officer Barreto approached on the driver's side while Sgt. Colavito and Officer Caputo approached on the passenger side. Sgt. Colavito observed that § 87(2)(b) was very nervous and he kept moving his hands around inside the vehicle as

Officer Barreto spoke to him. Sgt. Colavito also immediately observed an NYPD parking plaque on the dashboard directly in front of § 87(2)(b). He explained that he saw the green reflection of the plaque from the windshield and decided to go around to the driver's side to check it out.

§ 87(2)(b) was not particularly reaching for anything but he kept placing his hands on his knees and moving them around in a way that they were not visible to the officers. Sgt. Colavito did not instruct § 87(2)(b) to place his hands where he could see them and did not recall if Officer Barreto did. However, he noted that because § 87(2)(b) continued moving his hands around, Officer Barreto "made the right tactical call" and instructed § 87(2)(b) to exit the vehicle. § 87(2)(b) was instructed out of his vehicle within thirty to forty-five seconds of the officers' initial approach. Officer Barreto then walked § 87(2)(b) to the rear of the vehicle so that he could tactically watch § 87(2)(b)'s hands and explain the reason for the stop to him. Officer Barreto explained to § 87(2)(b) that he was stopped for the tinted windows.

None of the officers frisked or searched § 87(2)(b) and none of them searched § 87(2)(b)'s vehicle. The only time Sgt. Colavito reached into § 87(2)(b)'s vehicle was when he removed the NYPD plaque which was on the dashboard. There was another female, § 87(2)(b) in the front passenger seat of the vehicle when Sgt. Colavito removed the plaque from the vehicle and questioned § 87(2)(b) about the ownership of the plaque. However, § 87(2)(b) got angrier because he was being questioned. Sgt. Colavito called the Brooklyn North Borough in order to confirm the ownership of the plaque, but because it was early in the year, they did not have the master list at the time. Sgt. Colavito then called the 69th Precinct and verified that § 87(2)(b)'s sister works there, but she was not working at that moment. Sgt. Colavito then asked § 87(2)(b) to call his sister, and he did, and she subsequently verified that she was aware that § 87(2)(b) was driving her vehicle and that the plaque belonged to her.

§ 87(2)(b) did not ask Sgt. Colavito for his name and shield number. However, § 87(2)(b) heard when Sgt. Colavito identified himself, by stating "Hello, I'm Sgt. Colavito from the 75th Precinct," to § 87(2)(b)'s sister over the phone. § 87(2)(b) did not request Officer Barreto's or Officer Caputo's name and shield number. None of the officers told § 87(2)(b) to "shut up" or threatened to issue a summons to § 87(2)(b) but he was warned about having the tinted windows. Sgt. Colavito noted that § 87(2)(b) was going to be issued a summons for having the tinted windows but after his sister's identity was established, he was let go without any summonses. The interaction lasted for approximately ten to fifteen minutes and this was so because of the calls Sgt. Colavito had to make to determine the ownership of the plaque.

Officer Jason Caputo was interviewed at the CCRB on June 15, 2009 (encl. 9a-e). Officer Caputo is a § 87(2)(b). On January 11, 2009, Officer Caputo was assigned to the Street Narcotics Enforcement Unit along with Officer Daniel Barreto and Sgt. Domenico Colavito. They were in plainclothes and assigned to an unmarked black Chevy Impala. Officer Caputo was positioned in the rear passenger seat while Officer Barreto was the driver and Sgt. Colavito was positioned in the front passenger seat. Officer Caputo worked from 3:00PM to 11:35PM. Officer Caputo did not have any entries in his memo book regarding the incident. A part of Officer Caputo's statement was inconsistent with those of Officer Barreto and Sgt. Colavito, and has been noted in the following summary of his narrative.

On January 1, 2009, while Officer Caputo and the rest of his team were doing a SNEU operation in the vicinity of Highland Boulevard, they got a description of a vehicle over the radio from their Operation Post (OP). Officer Caputo was unsure of exactly where the OP was positioned but he knew they were also in the vicinity making observations. He noted that they usually communicate through their radios, but he was unsure whether or not the communication on that day was on a recorded frequency. He believed the communication was a "point to point" transmission and not necessarily recorded. Officer Caputo did not recall the exact description sent over the radio by the OP, but he explained that the information generally transmitted is the vehicle description, plate number and the number of occupants in the vehicle. Officer Caputo was questioned about the reason for pulling § 87(2)(b) over and he responded, "The OP observed something and we were going to investigate it." Officer Caputo believed the observation might have been regarding a transaction, but he did not specifically remember the message because "we do this everyday."

Officer Caputo noted that they were driving down Jamaica Avenue when they got the transmission and after driving approximately three blocks up, the vehicle described over the radio was observed and pulled over and Officer Caputo approached the rear passenger side of the vehicle and Sgt. Colavito was in front of him, while Officer Barreto approached on the driver's side. Officer Caputo did not recall the description of the vehicle provided during the transmission and he also did not remember the kind of

vehicle § 87(2)(b) was driving. Officer Caputo did not observe anything going with the occupants of the vehicle when they were stopped. He, however, recalled that the windows of the vehicle were tinted. Officer Barreto questioned the driver, § 87(2)(b) but Officer Caputo was unable to hear their conversation from where he was positioned. He believed there was an issue with an NYPD parking plaque that was observed in § 87(2)(b)'s vehicle, and § 87(2)(b) stated that the plaque did not belong to him. A phone call was made by Officer Barreto to confirm who the parking plaque belonged to and it was confirmed that the plaque belonged to § 87(2)(b)'s sister. Officer Caputo did not know exactly when the plaque was discovered because it was initially observed by Officer Barreto who was by the driver's side. Officer Caputo noted that he did not observe the parking plaque inside the car, but he saw it after one of either § 87(2)(b) or Officer Barreto (he was unsure of whom) took it out of the car. He noted that it was at this point he knew that there was an issue about a parking plaque.

Officer Caputo noted that Officer Barreto instructed § 87(2)(b) to exit his vehicle at some point and they had a conversation at the rear of § 87(2)(b)'s vehicle, but Officer Caputo did not hear any part of their discussion. Officer Caputo could not describe § 87(2)(b)'s demeanor when he was stopped. He stated that he could not remember and noted that there was nothing out of the ordinary about his behavior that stood out to him. Officer Caputo was questioned about whether § 87(2)(b) did anything that made him fear for his safety or for the safety of his partners and he responded, "No." He noted that § 87(2)(b) was not at any point threatening towards him and he did not recall if § 87(2)(b) was threatening towards Officer Barreto or Sgt. Colavito. Officer Caputo did not know what led to Officer Barreto's instructing § 87(2)(b) to exit his vehicle, but he believed it was because of the parking plaque that was observed. Officer Caputo did not recall what § 87(2)(b)'s demeanor was like after he was instructed to exit his vehicle. He noted that § 87(2)(b) did not question him about why he was stopped, and he did not recall if § 87(2)(b) had any interaction with Sgt. Colavito.

When questioned about what happened after § 87(2)(b) exited his vehicle, Officer Caputo stated, "I don't remember." He reiterated that Officer Barreto was having a discussion with § 87(2)(b) and there was no reason for him to "get in the middle of it." Officer Caputo noted that all he did was stand in a tactical position to ensure that nothing happened. Officer Caputo did not believe that Officer Barreto frisked § 87(2)(b) because there was no reason to. He believed the conversation was "all about the plaque," but he was not involved in the conversation, so he did not know the details of their conversation. He also did not observe Officer Barreto search § 87(2)(b).

Officer Caputo emphatically stated that he did not search § 87(2)(b)'s vehicle, but he did not recall if Officer Barreto or Sgt. Colavito did. Officer Caputo did not know if § 87(2)(b) was questioned about the tints on his windows, and reiterated that he did not know what Officer Barreto spoke to § 87(2)(b) about. He also did not hear Officer Barreto or Sgt. Colavito state to § 87(2)(b) that he would be issued a summons for the tinted windows.

§ 87(2)(b) did not ask Officer Caputo for his name and shield number, and Officer Caputo did not hear him ask Officer Barreto or Sgt. Colavito for their names and shield numbers. The stop lasted for approximately five to ten minutes, and Officer Caputo did not have any verbal interaction with § 87(2)(b).

Police Documents

The roll tour 3 roll call for the 75th Precinct notes that Sgt. Colavito, Officer Barreto and Officer Caputo were assigned to an unmarked vehicle #8192 (encl. 12a-j).

Notice of Claim

On July 2, 2009, § 87(2)(b) Sharina Soriano of the Office of the Comptroller confirmed that § 87(2)(b) did not file a notice of claim regarding this allegation.

Subject Officer CCRB History

Sgt. Colavito has been with the NYPD for twenty-four years and has been a subject of one "other misconduct" allegation in CCRB #200710299 in which he failed to note a strip-search in the Command Log and for which he faced charges (encl. 2a).

Officer Barreto has been with the NYPD for three years and has not been the subject of any substantiated CCRB allegations (encl. 2b).

Officer Caputo has been with the NYPD for four years and has not been the subject of any CCRB allegations (encl. 2c).

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Conclusions and Recommendations

Subject Officer Identification

Sgt. Colavito was the supervisor present during the encounter; therefore allegation A is pleaded against him. § 87(2)(b) stated that of the three officers, one of the officers (a 6ft tall, husky, white male in his late twenties) instructed him to exit the vehicle, asked him to step to the rear and allegedly frisked and searched him. As per all three officers, Officer Barreto, who fit § 87(2)(b)'s description, was the officer who instructed § 87(2)(b) out of the vehicle and interacted with him at the rear of his vehicle. Therefore, allegations B and C are pleaded against him. § 87(2)(b) described the officer who allegedly searched his car as a 6ft tall older white male in his forties. Of the three officers, Sgt. Colavito was the oldest and he acknowledged reaching into § 87(2)(b)'s vehicle to retrieve the parking plaque. Therefore, allegation D is pleaded against him. § 87(2)(b) alleged that he asked all three officers for their names and shields; therefore, allegations E through G are pleaded against all three officers.

Allegations Not Pleaded

§ 87(2)(b) alleged that Sgt. Colavito threatened to issue a summons to him for having tinted windows. This allegation is not being pleaded because Sgt. Colavito could lawfully have issued a summons to § 87(2)(b). Therefore, the statement, if made, would have been a statement of fact as opposed to a threat. Also, § 87(2)(b) alleged that one of the officers told § 87(2)(b) to "go the fuck home." However, § 87(2)(b) did not make this allegation and refuted this fact during his interview. Therefore, a discourtesy allegation is not pleaded.

Undisputed Facts

It is undisputed that § 87(2)(b)'s vehicle was stopped because of the tinted windows. It is undisputed that Sgt. Colavito searched § 87(2)(b)'s vehicle.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

§ 87(2)(b), § 87(2)(g)

Allegation A: Sgt. Domenico Colavito authorized the stop of the car in which § 87(2)(b) was an occupant.

As noted above, it is undisputed that the windows of the vehicle § 87(2)(b) was driving were tinted and the officers were able to make this observation because the windows were rolled up. As noted in Kamins's *New York Search and Seizure*, driving with excessively tinted windows is a violation of the New York State (NYS) Vehicle and Traffic Law, and this violation provided justification for the vehicle stop (encl. 1a-c). Although § 87(2)(b) was not issued a summons for this violation, the officers noted that once the NYPD parking plaque was discovered in § 87(2)(b)'s vehicle, their interest was diverted into determining the ownership of the plaque because it is a property of the NYPD. § 87(2)(b), § 87(2)(g)

Allegation B: Officer Daniel Barreto frisked § 87(2)(b)

Allegation C: Officer Daniel Barreto searched § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

Allegation D: Sgt. Domenico Colavito searched the car in which § 87(2)(b) was an occupant.

It is undisputed that Sgt. Colavito reached into § 87(2)(b)'s vehicle to retrieve the parking plaque and to determine the ownership of the plaque. § 87(2)(g)

§ 87(2)(b), § 87(2)(g) Sgt. Colavito and Officer Barreto asserted that the parking plaque was on the dashboard directly in front of § 87(2)(b) while § 87(2)(b) and § 87(2)(b) contradicted this fact and stated that it was retrieved from the visor above the driver's seat. § 87(2)(g)

Allegation E: Officer Daniel Barreto refused to provide his name and/or shield number to § 87(2)(b)

Allegation F: Officer Jason Caputo refused to provide his name and/or shield number to § 87(2)(b)

Allegation G: Sgt. Domenico Colavito refused to provide his name and/or shield number to § 87(2)(b)

§ 87(2)(b), § 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].”

Investigator: Josephine Ogboye

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: